RULES UNDER ACT II OF 1913

OFFICIAL TRUSTEES

RULES UNDER THE ACT

Notn. No. 2486, J. D., 1st Apr. 1914; B. G., 1914, Pt. I, p. 690, as amended by Notn. No. 360, J. D., 18th Jan. 1915.

In exercise of the powers conferred by section 30 of the Official Trustees Act, 1913 (II of 1913), the Governor in Council is pleased to make the following rules for carrying into effect the objects of the Act and for regulating the proceedings of the Official Trustee, Bombay, in the discharge of his duties.

1. *Accounts and other records to be kept.*—The Official Trustee shall keep the following accounts, statements and other records, namely :—

No. 1.—A Cash Book, in which shall be entered in Form No. 1, hereto annexed, in separate columns the daily receipts and issues of cash, Government securities, bonds and shares on account of each trust and the fees charged against each trust.

No. 2.—A Ledger Account of Trusts, which shall contain in Form No. 2, hereto annexed, separate and distinct accounts of each trust, and shall show in detail every debit and credit item, and every transaction, whether in cash, Government securities, or shares, relating to each trust.

No. 3.—A Bank Book, which shall contain in Form No. 3, hereto annexed, an entry of every payment into, and withdrawal from, the account of the Official Trustee with the Bank of Bombay.

No. 4.—A Ledger Account of the General Purposes Fund, which shall contain in Form No. 4, hereto annexed, in detail every debit and credit item of the account of the fund hitherto called the Audit Fund, but henceforth to be called the General Purposes Fund.

No. 5.—A Securities Account Book, in which shall be kept in Form No. 5, hereto annexed, an account of all Government and other securities deposited in the Bank of Bombay under rule 7.

No. 6.—A Security Book, in which shall be entered in Form No. 6, hereto annexed, a list of all Government and other securities, debentures and shares held by the Official Trustee on account of each trust.

No. 7.—A Security Interest Book, in which shall appear in Form No. 7, hereto annexed, a statement of interest due half-yearly on Government securities and on Municipal, Port Trust and other bonds or debentures held by the Official Trustee.

No. 8.—A Security Renewal Book, in which a record shall be kept in Form No. 8, hereto annexed, of all Government or other securities sent for renewal or otherwise to the Public Debt Office or office of issue.

No. 9.—A Purchase, Sale and Transfer Book, in which shall be entered in Form No. 9, hereto annexed, an account of all purchases, sales and transfers of Government and other securities and shares by the Official Trustee.

No. 10.—A Rent Book, in which the amount of rent received each month by the Official Trustee on account of each immoveable property in his charge shall be entered in Form No. 10, hereto annexed, with a reference to the corresponding entry in the Cash Book. The entry in the column "Monthly Rent" shall be initialled by the Official Trustee when he fixes the rent of each house or tenement.

No. 11.—An Inward Register, which shall show, in Form No. 11, hereto annexed, an entry of every letter received in the office giving date of receipt, sender's name, the trust to which it refers, and how it was disposed of.

No 12.—An Outward Register, which in Form No. 12, hereto annexed, shall contain particulars of each letter sent out of the office, and shall show the amount of postage, if any, paid on each letter, and the trust to which such postage is chargeable.

No. 13.—A Receipt Book, which in Form No. 13, hereto annexed, shall register in an annual consecutive series of numbers all receipts granted by the Official Trustee for cash or Government securities or other documents having a money value, detailed particulars of the cash or documents received being entered in the receipts and also in the counterfoils, which latter shall be kept in the Official Trustee's office. Each counterfoil shall be initialled by the Official Trustee at the time of signing the receipt to which it appertains, after comparison of the receipt therewith.

No. 14.—A Register of Trusts, in which shall be registered in Form No. 14, hereto annexed, particulars of every trust remaining in the hands of the Official Trustee at the date of the commencement of the Act and of all trusts received subsequent thereto. The particulars shall include date of acceptance of the trust, the names of the settler of the trust property, the nature and value of the trust property from time to time, the names and addresses of the person or persons or the class of persons entitled to the income of the trust property, the fees payable to the Official Trustee in respect of his administration of the trust and such other matters as the Official Trustee shall consider in any particular case desirable to enter in the register.

No. 15.—A Commission Book, in which shall be shown in Form No. 15, hereto annexed, the total amount of commission as appearing from the Cash Book. The Commission Book shall also show the total amount of commission and fees, if any, paid each month into the Bank of Bombay to the credit of Government, together with the date of such payment.

No. 16.—A Letter Delivery Book, in which shall be entered in Form No. 16, hereto annexed, the names and addresses of the persons to whom letters are sent from the Official Trustee's office by messengers, with columns for the office number of the letters and for the signatures of the addreesses or their agents.

2. *Cash book when to be balanced and initialled.*—The Cash Book shall be balanced at the close of every month, and shall be laid before the Official Trustee, who shall check the entries and satisfy himself that the

balance is correct, and shall initial the book in token of his having so satisfied himself.

3. *Vouchers.*—Every payment charged in the Official Trustee's cash account shall be supported by a voucher, which shall be passed for payment under the Official Trustee's initials.

4. *Limit of balance to be held in cash.*—The Official Trustee shall not at any time retain in his hands a larger cash balance than five hundred rupees. Any excess above that sum shall, at the earliest day possible, be lodged to the credit of the Official Trustee in an account opened in his official name in the Bank of Bombay.

5. *Investment of cash balances.*—In so far as it is consistent with the conditions of the trust in each case, whenever the cash balance to credit of any trust amounts to five hundred rupees, it shall be invested, so far as may be practicable. But this rule is not to be interpreted as in any way prohibiting or deprecating the investment of smaller credit cash balances, which may be invested, subject to the conditions of the trust and the current demands on the fund, at the discretion of the Official Trustee.

6. *Method of investment of trust moneys.*—The Official Trustee may invest or retain invested money belonging to any trust and coming to his hands in any investment authorised by the trust instrument or (save as otherwise provided by that instrument) authorised by law for the investment of trust funds, and may (save as so provided) retain any investment existing at the date of the commencement of the trust. Provided that he shall not invest in or hold any investment in such manner as to expose himself to liability as the holder thereof, unless he is satisfied that he is fully indemnified or secured against loss.

7. *Custody of securities.*—All Government securities vesting in the Official Trustee, and coming into his possession shall be lodged by him, as soon as practicable, in the Bank of Bombay for safe custody, except in any case in which it may be necessary to retain them temporarily for any purpose. Debentures or other securities issued by or on behalf of any municipal body, Port Trust, or City Improvement Trust, shares in any public company, title-deeds and similar documents may either be lodged in the Bank of Bombay for safe custody or may be retained by the Official Trustee in his own custody as he may in each case consider most beneficial to the trust concerned.

8. *Schedules of trust accounts.*—The Official Trustee's account shall be closed on the thirtieth day of June and on the thirty-first day of December in each year, and a schedule shall be prepared showing the opening balance of the period of six months covered by the schedule of each trust at that time in the hands of the Official Trustee, all receipts in respect of any trust during such period of six months and all payments made in respect of any trust during the same period, and the closing balance of each trust remaining in the hands of the Official Trustee at the close of such period, and also a schedule showing trusts closed during the same period of six months and the manner in which such trusts have been closed. These schedules shall be filed and retained in the Official Trustee's office, and

a copy or copies thereof shall be furnished to the Secretary to Government in the Judicial Department, but shall not be published, and, subject to the provisions of section 22 of the Act and of rule 23, no person shall be entitled to inspect the same or any of the trust accounts in the possession of the Official Trustee except in pursuance of an order signed by the Secretary to Government, Judicial Department.

9. *Audit.*—The accounts of the Official Trustee shall be audited and the securities held by him or on his account shall be verified, from time to time as Government may direct, by the Assistant Examiner of Local Fund Accounts or by some officer or officers deputed by the Accountant General, Bombay, and shall be certified by him as provided by section 19 of the Act.

10. *General Purposes Fund.*—The costs of and incidental to the audit of the Official Trustee's accounts and of the preparation of the schedules shall be paid out of the income of the General Purposes Fund, to which also shall be debited the following expenses, *viz.* :—

(*a*) the fees or other remuneration, if any, payable by the Official Trustee to the Bank of Bombay for the lodgment for safe custody, collection of interest upon, or withdrawal of Government securities belonging to any trust, the trust property of which does not exceed rupees ten thousand in nominal value ;

(*b*) postage charges incurred by the Official Trustee for his official purposes ;

(*c*) the cost of stamps on cheques drawn by the Official Trustee in his official capacity ;

(*d*) postages incurred in respect of trust funds which do not exceed rupees ten thousand in nominal value ; and

(*e*) conveyance hire for the purpose of depositing in, or withdrawing from, the Bank of Bombay or other office, Government or other securities or cash, when such conveyance hire is incurred for more than one trust at a time.

11. *Fees payable by trust estate.*—The fees payable to the Official Trustee in respect of his administration of any trust shall, subject as hereinafter provided, be calculated in the following manner :—

Provided that when an estate is transferred by the Administrator General to the Official Trustee under section 27 of Act III of 1913, no fee under clause (*a*) of this rule shall be payable in respect of the property so transferred or of any addition that may accrue thereto by way of interest or income arising therefrom.

(*a*) A fee on acceptance of the trust at the following rate :—

(i) If the gross capital value of the trust property at the date of acceptance does not exceed Rs. 15,000, three-fourths per cent. in respect of that value.

(ii) If the gross capital value at the said date exceeds Rs. 15,000, then three-fourths per cent. in respect of that value up to Rs. 15,000, one-fourth per cent. in respect of any excess

of that value over Rs. 15,000 up to Rs. 3,00,000, one-eighth per cent. in respect of any excess of that value over Rs. 3,00,000 up to Rs. 10,00,000, and one-sixteenth per cent. in respect of any excess of that value over Rs. 10,00,000.

Note.—In cases in which the trust property consists wholly or in part of Government or other securities, the nominal value of such securities shall be taken to be their capital value for the purpose of calculating the gross capital value of the trust property; and in cases in which the trust property consists wholly or in part of immoveable property, the capital value of such immoveable property, for the purpose of calculating the gross capital value of the trust property, shall be taken to be $16\frac{2}{3}$ times the annual rental value of such immoveable property.

(*b*) Upon the withdrawal (whether upon distribution amongst the beneficiaries or otherwise) of any capital from the trust property, a fee at the rate, for every Rs.100 or part of Rs. 100 of the value of the property withdrawn, equal to the average rate per cent. at which the fee upon the acceptance of the trust was payable in respect of the entire trust property.

Provided that the fees chargeable under the two preceding clauses of this rule shall be so regulated that the total fees so chargeable in respect of a trust on acceptance and withdrawal shall not be less than Rs. 75.

(*c*) Upon any investment (other than a purchase of land, or any mortgage of or charge on property), a fee at the rate of one-half per cent. on the money invested.

(*d*) Upon any purchase or sale of land or any investment by way of mortgage of or charge on property, a fee at the rate of one-eighth per cent. of the purchase money or money advanced.

(*e*) Upon the annual income of the trust property, when such income arises from investments other than land or buildings, a fee at the rate of one and one-half per cent. on that income up to Rs. 5,000, and at the rate of one per cent. in respect of any excess of that income over Rs. 5,000. When such income arises from rent of immoveable property, a fee at the rate of two and one-half per cent. on that income up to Rs. 5,000, and at the rate of two per cent. on any excess of that income over Rs. 5,000. Provided that the minimum income fee to be charged in respect of any trust shall be Rs. 10.

(*f*) If at any time during the continuance of a trust in course of administration by the Official Trustee any property (not arising from accumulation of income of the trust property) shall become subject to the trust in addition to the property comprised therein at the date of acceptance thereof, there shall be paid, in respect of such additional property, a further fee of such amount as would have been payable

upon the acceptance of a trust comprising such additional property only.

(*g*) Where it appears to the Official Trustee, upon accepting a trust, that the trust property consists wholly or partially of reversionary interests or other property not in possession, and not readily realisable (all which interests and property are in this sub-rule referred to as the "reversionary property"), he may charge an additional fee, not exceeding rupees fifteen, upon acceptance of the trust. When such additional fee is charged, then—

(i) upon acceptance of the trust, the reversionary property shall be excluded from the trust property for the purpose of ascertaining the amount of the fee payable in pursuance of these rules upon such acceptance, and the said fee shall be calculated and paid as if the trust property (if any) other than the reversionary property were alone comprised in the trust; and

(ii) so far as regards the reversionary property or any part thereof, the date on which the same falls into possession or is realised shall, for the purpose of ascertaining any capital fee payable in pursuance of these rules, be deemed to be the date of the acceptance of the trust, and the fee payable upon acceptance shall be payable at the first-mentioned date; and

(iii) for the purpose of ascertaining the fee payable on such acceptance in respect of the reversionary property or any part thereof, the gross capital value of that property, or part, at the date at which such fee is payable, shall be aggregated with the gross capital value of any other part of the trust property in respect of which the fee on acceptance has been previously paid.

(*h*) In any case in which it appears to the Official Trustee that the circumstances of a trust proposed to be administered by him are, or probably will be, such as to render his duties in relation thereto exceptionally onerous, he may charge a special fee in respect of the performance of such duties, in addition to the fees payable in pursuance of these rules; and the Official Trustee may make the payment of, or agreement to pay, such special fee a condition of his accepting a trust. A statement of special fees charged by the Official Trustee under this clause shall be submitted to Government every half-year along with the copies of schedules which he is required to submit under rule 8.

12. *Recovery of fees by instalments.*—The Official Trustee may, in his discretion, arrange that the fee payable on acceptance of a trust or on investment thereof or any part thereof, shall be debited to the account of the trust, and shall be recovered by him from time to time by instalments out of the income of the trust fund as the same accrues due: provided that any amount which is or remains due from any trust fund in respect of fees payable in pursuance of these rules shall be recovered from the trust

fund before the same is withdrawn or distributed to parties entitled thereto.

13. *Fees for property already vested in Official Trustee.*—Any trust property which at the date upon which the Act came into force was vested in the Official Trustee, and prior to that date paid commission or fees to the Official Trustee as remuneration for his services as trustee, shall continue to pay fees at the same rate as hitherto, notwithstanding anything contained in these rules.

14. *Procedure in case of appointment under a Will.*—When the Official Trustee has been appointed trustee under any Will, the executor of the Will or the administrator of the estate concerned, after obtaining probate or letters of administration with the Will annexed, shall notify the appointment to the Official Trustee in writing, and, if so required by the Official Trustee, shall supply him with a copy of the Will and of any trust instrument or other document affecting the trust, and such particulars as to the nature and value of the trust property and the liabilities (if any) attaching to such property, or the holder thereof, and the names and addresses of any beneficiaries under the trust, and such other information as the Official Trustee may consider it desirable to obtain in any particular case. After having been supplied with such information, the Official Trustee shall decide whether the trust shall be accepted or refused, and shall give notice to the executor or administrator of such acceptance or refusal, and in case of acceptance shall notify in writing his consent to act in the trust and the terms upon which his consent is given.

15. *Payments to beneficiaries.*—All moneys payable by the Official Trustee to beneficiaries shall be payable at the office of the Official Trustee in Bombay. When payment is remitted by post, the cost of remittance including postage charges must be borne by the person at whose request the remittance is made.

16. *Income how payable.*—The income of trust property may be paid to the person or persons entitled to receive the same either direct or through a Bank or through solicitors, and where any such person is a married woman may be so paid notwithstanding any restraint on anticipation.

17. *Receipts given by Banks or Solicitors.*—Where the Official Trustee is authorised to pay any income to the Bank or to the solicitors of a person entitled, the receipt of that Bank or of those solicitors shall be a sufficient discharge to the Official Trustee.

18. *Advances to a Trust Account.*—The Official Trustee may make advances for the purposes of any trust in his hands out of any cash balance to the credit of his account with the Bank of Bombay or out of his General Purposes Fund on such terms as he may think proper.

19. *Evidence as to identity, etc., of persons.*—The Official Trustee may at any time require such evidence as he may think sufficient that a person is alive and is the person to whom any money or property is payable or transferable, and may refuse payment or transfer until such evidence is produced.

20. *Procedure where person entitled cannot be found.*—When a person appearing to be beneficially entitled to any sum of money under a trust in the hands of the Official Trustee or to be interested in the trust property cannot be found, or it is not known whether he is living or dead, the Official Trustee may apply to the Court for directions as to the course to be taken with reference to such person, and until an Order of the Court is made shall retain any sum payable to such person, and may invest the same in Government securities and accumulate the interest thereof, subject to the provisions of section 23 of the Act.

21. *Method of transfer of estate to Government under section 23.*—When any trust estates in the hands of the Official Trustee are to be transferred to the account and credit of the Government of India under section 23 of the Act, they shall, so far as they consist of moveable property except cash, be converted into cash, and together with any cash balance standing to credit of the trust estates shall be paid by the Official Trustee into the Bank of Bombay to the account and credit of Government. Where any such estates consist of immoveable property, the Official Trustee shall make a special report of the matter to the Secretary to Government in the Judicial Department, and shall await such orders as may be given by Government in respect of such estates.

22. *Authority prescribed under section 24.*—Claims for moneys transferred to the account and credit of the Government of India under section 23 of the Act shall be submitted to the Official Trustee, who shall be the authority prescribed under section 24.

23. *Inspection.*—Upon an application in writing by or with the authority of any person interested in trust property, the Official Trustee :—

(*a*) shall permit the applicant or his solicitor or other authorised agent to inspect and take copies of any entry in any register relating to the trust, and (so far as the interest of the applicant in the trust property may be affected thereby) of any account, notice or other document in the custody of the Official Trustee ;

(*b*) shall at the expense of the applicant supply him or his solicitor or other authorised agent with a copy of any such entry, account or document as aforesaid or of any extract therefrom ;

(*c*) shall give to such applicant or to his solicitor or other authorised agent such information respecting the trust and the trust property as shall be reasonably requested in the application and shall be within the power of the Official Trustee.

Subject as aforesaid, the Official Trustee shall observe strict secrecy in respect of any trust in course of administration by him.

24. *Fees for inspection and production.*—Subject to the conditions in rule 23 the following fees may be levied by the Official Trustee :—

	Rs.
(1) For search for information regarding trust estates which have been wound up, per hour	4

R 760—96

	Rs.
(2) For production of papers, books, etc., in the High Court, per day	2
(3) For production of papers, books, etc., in the Fort, Bombay, elsewhere than in the High Court, per day.	10
(4) For production of papers, books, etc., in Bombay but without the Fort, per day	15
(5) For production of papers, books, etc., in the mofussil the Official Trustee may fix fees according to the circumstances of each case	
(6) For certifying true copies of documents, each certificate	4

25. *Trust for religious purposes.*—The Official Trustee shall not accept any trust for religious purposes which involves the exercise by him as trustee of any religious observance or ceremony, or the decision of any questions as to the religious merit or character of any individual or institution.

26. *Trust involving management or carrying on of business.*—The Official Trustee shall not accept any trust which involves the management or carrying on of any business, except for the purpose of winding up forthwith such business in order to realize the trust funds. In any case in which it is necessary to wind up any business the Official Trustee shall be entitled to employ, at the expense of the trust, such person or persons as may in his opinion be necessary for the purpose of so winding up the business, and he shall not be liable for any loss which may occur in the management of such business.

Annexures.

FORM No. 1.

Cash Book.

Folio.	Date.		Commission account.	Bank shares.	Securities.	Cash.	Folio.	Date.		Commission account.	Bank shares.	Securities.	Cash.

FORM No. 2.

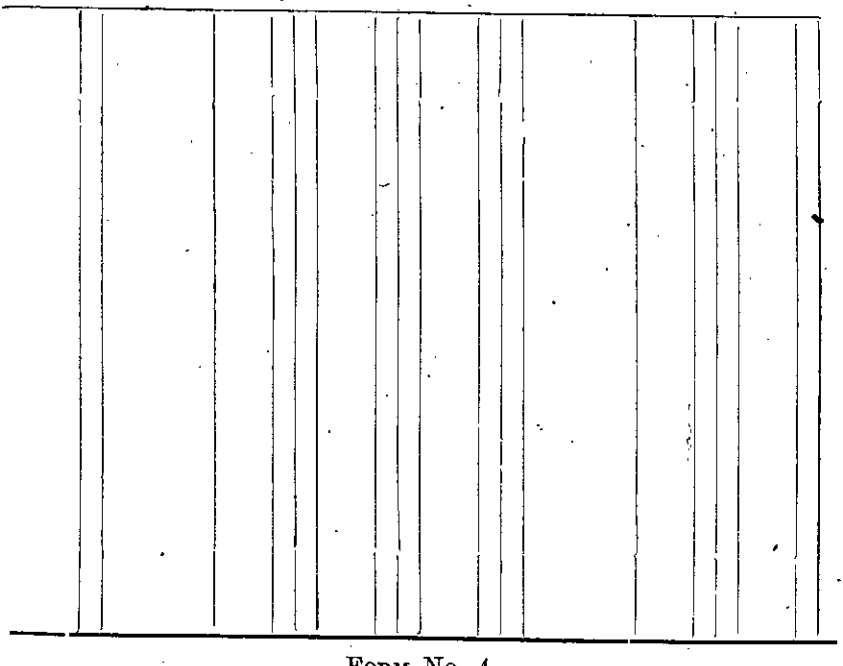
Ledger Accounts of Trusts.

Dr. Account Current of the Trust of *Cr.*

Date.		Bank shares.	Securities.	Cash.	Date.		Bank shares.	Securities.	Cash.

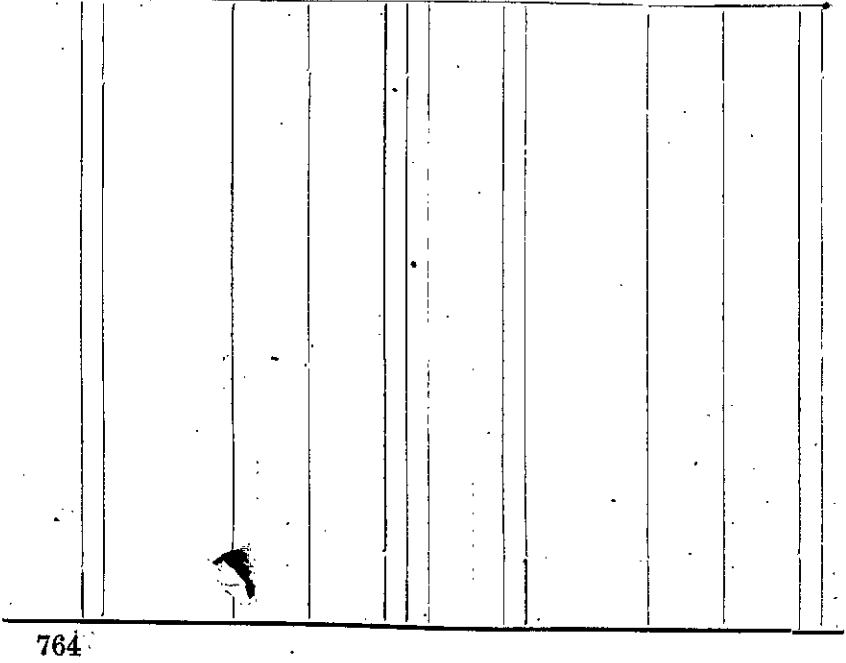
FORM No. 3.

Bank Book.



FORM No. 4.

Ledger Account of General Purposes Fund.



FORM NO. 5.

Securities Account Book.

Official Trustee's Account of Securities with the Bank for the half-year ending 19 .

Date of deposit.		3½% loan of 1842-43.	3½% loan of 1854-55.	3½% loan of 1865.	3½% loan of 1879.	3% loan of 1896.	3½% loan of 1900-01.	Other public securities.

Date of withdrawal.		3½% loan of 1842-43.	3½% loan of 1854-55.	3½% loan of 1865.	3½% loan of 1879.	3% loan of 1896.	3½% loan of 1900-01.	Other public securities.

FORM No. 6.

Security Book.

Date.	Received or purchased.	Numbers of notes.	Loan.	Amount.	Delivered or sold.	Date.	Date.	Received or Purchased.	Numbers of notes.	Loan.	Amount.	Delivered or sold.	Date.

FORM No. 7.

Security Interest Book.

Interest on securities due on day of and realized on

Ledger folio.	Names of trusts.	Amount of notes.	Interest.	Income tax.	Net interest.	Rate of commission.	Amount of commission.	Ledger folio.	Names of trusts.	Amount of notes.	Interest.	Income tax.	Net interest.	Rate of commission.	Amount of commission.

FORM No. 8.

Security Renewal Book.

Memorandum of securities endorsed for renewal.

Trust.	Number of note.	Value.	Loan.	When endorsed.	When received.	New number of note.	Trust.	Number of note.	Value.	Loan.	When endorsed.	When received.	New number of note.

FORM NO. 9.

Purchase, Sale and Transfer Book.

Securities purchased.

Date of purchase.	Numbers of notes.	Loan.	Amount of loan.	Rate.	Cost.	Interest from what date.	Amount of interest.	Net cost.	Trust for which purchased.	Name of broker.

Securities sold.

Date of sale.	Numbers of notes.	Loan.	Amount of loan.	Rate.	Proceeds.	Interest from what date.	Amount of interest.	Net proceeds.	Trust on account of which sold.	Name of broker.

FORM No. 9—*contd.*

Purchase, Sale and Transfer Book—contd.

Securities transferred.

Date of transfer.	Numbers of notes.	Loan.	Amount of loan.	Rate.	Proceeds.	Interest from what date.	Amount of interest.	Net proceeds.	Trust from which transferred.	Trust to which transferred.

Shares sold.

Date of sale.	Trust.	Description of shares.	Numbers of shares.	Rate.	Proceeds.	Name of broker.

Rei

Names of trusts.	Property No.	Monthly rent.	Official Trustee's initials.	Nan of tena

Date of receipt.	Date of letter.	From wl receive

FORM No. 10.

Rent Book.

ıter for the half-year ending

Months for which rent is recovered and amount and date of credit in accounts.												Re-marks.
	Date.		Date.		Date.		Date.		Date.		Date.	

FORM No. 11.

Inward Register.

Name of the trust.	How disposed of.	Date of receipt.	Date of letter.	From whom received.	Name of the trust.	How disposed of.

FORM No. 12.

Outward Register.

No.	Date.	Name of the trust.	To whom addressed.	Station.	Amount of postage.	To what account charged.	When charged.

FORM No. 13.

Receipt Book.

No._____

Date_____

For what trust _____

_____

From whom received _____

_____

_____

_____

_____

Rs._____

Official Trustee.

No._____

Date_____

Trust_____

Received from_____

the sum of Rupees_____

_____

being_____

_____

_____

Rs._____

Official Trustee.

FORM NO. 14.

Register of Trusts.

Date of acceptance of the trust.	Name of the settlor of the trust property.	Nature and value of trust poperty.		Fees payable to Official Trustee in		Names and addresses of the persons entitled to the income of the trust property.
		Nature.	Value.	Capital.	Income.	

FORM NO. 15.

Commission Book.

Commission Account for the half-year ending 19 .

FORM NO. 16.

Letter Delivery Book.

No.	Date.	Address.	Peon's name.	Receipt.